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assistance or payment shall be recalculated and any excess refunded with applicable interest.

(d) The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to: 18 U.S.C. 286, 287, 371, 641, 651, 1001 and 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

(e) Any person who is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the regulations set forth in parts 11 and 780 of this title.

(f) Any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof.

(g) For the purposes of 28 U.S.C. 3201(e), CCC waives the restriction on receipt of funds or benefits under this program but only as to beneficiaries who as a condition of such waiver agree to apply the 2001 or 2002 sugar beet payments to reduce the amount of the judgment lien.

PART 1482—VALUE-ADDED WHEAT GLUTEN AND WHEAT STARCH PRODUCT MARKET DEVELOPMENT PROGRAM

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AUTHORITY: 15 USC 714c.

SOURCE: 66 FR 30802, June 8, 2001, unless otherwise noted.

§ 1482.1 Applicability.

(a) This program is applicable until June 5, 2003. This program sets forth the terms and conditions under which the Commodity Credit Corporation (CCC) shall provide payments to U.S. producers participating in the Value-Added Wheat Gluten and Wheat Starch Product Market Development Program for the costs of conducting specific market development activities incurred in the United States with respect to U.S. production of wheat gluten.

(b) Payments shall be made only for wheat gluten and wheat starch products produced or advanced in value in the United States.

§ 1482.2 Administration.

(a) The Value-Added Wheat Gluten and Wheat Starch Product Market Development Program shall be administered under the general supervision of the Executive Vice President, CCC, and shall be carried out by the Deputy Administrator, Commodity Operations, Farm Service Agency (FSA).

(b) The Executive Vice-President, CCC, or the Deputy Administrator, FSA, or a designee, may waive or modify deadlines and other program requirements in cases where lateness or failure to meet other requirements does not adversely affect the operation of the Value-Added Wheat Gluten and Wheat Starch Product Market Development Program.

§ 1482.3 Definitions.

The definitions set forth in this section shall be applicable for purposes of administering the Value-Added Wheat Gluten and Wheat Starch Product Market Development Program.

(a) *Adjustment Plan* means a defined program of activities aimed at improving the economic viability of producers of value-added wheat gluten or wheat starch products.

(b) *Agency* means the Farm Service Agency (FSA).

(c) *Agreement* means the Value-Added Wheat Gluten and Wheat Starch Product Market Development Program Application and Contract.

(d) *Modified wheat gluten or modified wheat starch* means any processed product derived from vital wheat gluten or

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wheat starch that has been obtained through refining or processing that adds value to the basic product.

(e) *Value-Added* means changes in vital wheat gluten or wheat starch that result in a further processed product having a higher market value than the vital wheat gluten or wheat starch.

(f) *Wheat gluten producer* means agricultural processors, including producer-owned corporations, that produce vital wheat gluten.

§ 1482.4 Eligibility.

(a) To be eligible to receive payments, a wheat gluten producer must:

(1) Have produced in the United States not less than 1,000,000 pounds of vital wheat gluten from July 1, 1998 through June 30, 2000.

(2) Have been engaged in the business of producing and marketing vital wheat gluten or modified wheat gluten from July 1, 1998 through June 30, 2000.

(3) Have reported specific adjustment efforts as part of the 1998 adjustment plan submitted by the Wheat Gluten Industry Council to the International Trade Commission in Investigation Number TA-201-67.

(4) Submit a timely application and comply with the terms and conditions of the program and instructions issued by CCC and FSA.

(b) [Reserved]

§ 1482.5 Application.

(a) To receive payments, eligible producers must submit an application within the application period announced by CCC. The application must include the following:

(1) Name of the applicant and name of firm, if applicable;

(2) Address of the applicant and firm;

(3) Name of agent for service of process;

(4) Telephone and fax numbers for the applicant and firm;

(5) Internal Revenue Service tax identification number under which the applicant is conducting business;

(6) Bank account number for electronic submission of funds (optional)

(7) Quantity of vital wheat gluten produced from July 1, 1998 through June 30, 2000;

(8) Submission of information in paragraph (b) of this section.

(9) Information as to the applicant's eligibility under § 1482.4

(b) Eligible producers must submit a proposal for a Value-Added Wheat Gluten and Wheat Starch Product Market Development Program Agreement. The proposal must include the following information:

(1) Nature of the adjustment plan through production development and market activities;

(2) Specific listing of activities and estimated costs;

(3) Goals for completion during the two-year program.

§ 1482.6 Costs.

(a) Costs of market development activities set forth in an applicant's Agreement for which CCC funds may be used to pay include, but are not limited to, the following:

(1) The cost of producing and distributing advertising material;

(2) The cost of product reformulation and testing;

(3) The cost of developing and expanding uses for existing value-added products;

(4) The cost of product demonstrations;

(5) Participation fees for retail and trade exhibitions and shows;

(6) The cost of educational training;

(7) The cost of food service promotions;

(8) Salaries associated with contractors and employees engaged in the above activities; and

(9) Capital costs relating to expanding production of modified wheat gluten or modified wheat starch for value-added products.

(b) Costs that may not be paid using CCC funds are:

(1) Fees paid for helping to prepare the application for program benefits;

(2) Political fund raising activities; and

(3) Costs that CCC determines are not consistent with the intent of the program.

§ 1482.7 Reports.

(a) A producer submitting an application must maintain accurate records and accounts that will document that all eligibility requirements under this Part and other requirements as may be

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determined by CCC are met. Such records and accounts must be retained for three years after the date of payment to the wheat gluten or wheat starch producer under this program. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, U.S. Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payments received plus interest thereon, as determined by CCC.

(b) Producers participating in the Value-Added Wheat Gluten and Wheat Starch Product Market Development Program must submit a quarterly report listing completion of activities and costs incurred under the program.

(c) Participating producers must also submit a project performance report 60 days after the end of the first year of the program and 60 days after the end of the second year of the program. The report should explain the activities undertaken to adjust to import competition that were included in the Agreement. CCC will review the report following the first program year. If a participating producer has not made significant progress in completing the stated activities in the first program year as determined by CCC, CCC may cancel the producer's eligibility for the second program year, and CCC may require the producer to refund with interest all or some of the funds received from CCC. If a participating producer has not made significant progress in completing the stated activities in the second program year as determined by CCC, CCC may require the producer to refund with interest some or all of the funds received from CCC in the second year of the program.

§ 1482.8 Payment.

(a) The total amount of CCC funds available to eligible producers for the first year of this program is \$27 million and the total amount available for the second (final) year of this program is \$13 million.

(b) The maximum payment rate to an applicant will be based on an applicant's average annual production of vital wheat gluten from July 1, 1998

through June 30, 2000 relative to the total average annual U.S. production of vital wheat gluten of all eligible applicants.

(c) After receipt and approval of an eligible producer's application and proposal, CCC will issue payment for the first program year to the applicant. Upon satisfactory completion of the activities included in the producer's Agreement for the first program year, as determined by CCC after receipt of the report required in § 1482.7 (c), CCC will issue payment for the second program year to the producer.

§ 1482.9 Debarment and suspension.

The Government-wide debarment and suspension (Nonprocurement) regulations and Government Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017, Subparts A through E, apply to this Part.

§ 1482.10 Misrepresentation and scheme or device.

(a) A producer shall be ineligible to receive payments under this program if CCC determines the producer:

(1) Adopted any scheme or device which tends to defeat the purpose of the program in this Part;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this Part to a producer engaged in a misrepresentation, scheme, or device, or to any other person as a result of the producer's actions, shall be refunded with interest together with such other sums as may become due, plus damages as may be determined by CCC.

(c) Interest charged under this part shall accrue at the rate of interest which the United States Treasury charges CCC for funds. Such interest shall accrue from the date CCC made such funds available to the date of repayment or the date interest increases as determined in accordance with applicable regulations.

(d) CCC may waive the accrual of interest and/or damages if CCC determines that the cause of the erroneous determination was not due to any action of the producer.

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(e) Any producer or person engaged in an act prohibited by this Part and any producer or person receiving payment under this Part, in part because of such act, shall be jointly and individually liable for any refund due under this Part and for related charges.

(f) The remedies provided in this Part shall be in addition to other civil, criminal, or administrative remedies which may apply.

(g) Other limitations may apply.

§ 1482.11 Appeals.

(a) Any producer who is subject to an adverse determination made under this Part shall have a right to appeal the determination by filing a written request with the Deputy Administrator of the Farm Service Agency at the following address: Deputy Administrator, Commodity Operations, Farm Service Agency, United States Department of

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Agriculture, STOP 0550, 1400 Independence Avenue, SW., Washington, DC 20250-0550.

(b) Any producer who believes that it has been adversely affected by a determination under this Part must seek review with the Deputy Administrator within thirty days of such determination, unless provided with notice by CCC which provides a different time for appealing.

(c) Any producer who believes that it has been adversely affected by a determination by the Agency must seek review with the Deputy Administrator before any other review may be requested by a court of competent jurisdiction.

§ 1482.12 Expiration.

This program will expire June 5, 2003. The program shall not be extended.